

REMARKS

Claims 8, 10-12, 14 and 123-128 of the present application are currently pending. These claims have been rejected by the Examiner in the Office Action mailed August 10, 2004.

In response, Applicants have amended independent claim 8. Support for the amendment to claim 8 may be found in the specification, the drawings, and the claims as originally filed. On account of the foregoing listed support for the amendment to claim 8, it is respectfully submitted that the amendment does not add new matter.

Claim Rejections Under 35 U.S.C. § 102

The Examiner has rejected claims 8, 10, 12, and 124-128 under 35 U.S.C. § 102(e) as being anticipated by Yu et al (U.S. 6,271,563).

Applicants, however, respectfully disagree with the Examiner in this regard.

In particular, the amended claim 8 now include the following limitations:

"a gate layer disposed above a substrate, said gate layer having a substantially level upper surface;
a conductive layer disposed over said gate layer, said conductive layer extending beyond edges of said gate layer;
thin first spacers disposed in contact with opposite sides of said gate layer and below said conductive layer; and
thick second spacers disposed in contact with said thin first spacers, each thick second spacer having a width throughout its height which is constant in a direction parallel with said thin first spacers, wherein the gate layer, the thin first spacers, and the thick second spacers have approximately the same height."

(Amended claim 8, underlining for emphasis)

As will be seen in Figure 5, the thin first spaces 19, and the thick second spaces 22 do not have the same height as the gate layer 20.

Moreover, Yu does not disclose a conductive layer disposed of a gate layer, as recited in claim 1. In this regard, it is respectfully submitted that the Examiner is incorrect in splitting the layer 20 into a lower portion (gate layer) and an upper portion (conductive layer). This is because,

the layer 20 described in Yu is a monolithic layer, and thus there is no basis to regard an upper portion of the layer 20 as being the "conductive layer", recited in claim 8.

Based on the foregoing, it is respectfully submitted that Yu does not teach all limitations of claim 8, as amended. Accordingly, it is respectfully submitted that Yu cannot anticipate claim 8, as amended.

Further, given that claims 10-12, 14, and 123-128 depend on claim 8, it is respectfully submitted that these claims are also not anticipated by Yu.

Claim Rejections Under 35 U.S.C. § 103

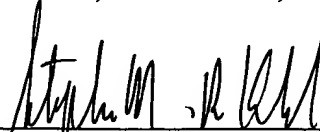
The Examiner rejected claims 11, 14, and 123 under 35 U.S.C. § 103(a) as being unpatentable over Yu in view of Matsumoto et al (U.S. 5,726,479). In this regard, Applicants respectfully submit that the combination of Yu, and Matsumoto, fail to teach or suggest "thick second spaces disposed in contact with said thin first spaces, each thick second space having a width throughout its height which is constant in a direction parallel with said thin first spaces, wherein the gate layer, the thin first spacers, and the thick second spacers have approximately the same height", as recited in claim 8. Accordingly, it is respectfully submitted that the Examiner should withdraw his rejection of claims 11, 14, and 123 under 35 U.S.C. § 103(a).

It is respectfully submitted that in view of the amendments and arguments set forth herein, all applicable rejections and objections have been overcome. Accordingly, a Notice of Allowance in which all pending claims are allowed, is respectfully sought.

If there are any additional charges, please charge Deposit Account No. 02-2666 for any fee deficiency that may be due.

Respectfully submitted,

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